

# Task Force on Guardianships and Conservatorships

## **Final Report**

September 10, 1998

**Michigan Supreme Court**  
State Court Administrative Office  
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## 1. Introduction

### 1.1 Institution and Composition of the Task Force

In November of 1996, the Michigan Supreme Court created the Task Force on Guardianships and Conservatorships, to be governed by the following mission statement:

The Task Force on Guardianships and Conservatorships will examine how the judiciary, legislature, and executive branch agencies can better protect the interests of those for whom guardianship or conservatorship is sought. The Task Force will initiate its work with a review of the recommendations of the Michigan Adult Services Task Force. The Task Force will recommend changes in court rules and management policies, statutes, and make other recommendations as appropriate to improve the ability of trial courts to protect the rights and interests of those unable to protect themselves, while maximizing the independence of individuals in need of protection.

As early as February of 1996, the Michigan State Court Administrative Office (SCAO) had publicly committed to requesting the Supreme Court to create a task force on guardianships and conservatorships.<sup>1</sup> The SCAO's commitment came in the wake of highly publicized abuses of wards by a professional guardian operating in Wayne County.<sup>2</sup> A formal SCAO request for the Supreme Court to create a task force on guardianships and conservatorships was made in May of 1996.<sup>3</sup> In September of that year the Representative Assembly of the Michigan State Bar Association also recommended that the Court create such a task force,<sup>4</sup> after which the Court took action.

The Supreme Court appointed 25 people to the Task Force on Guardianships and Conservatorships, with the Honorable Phillip E. Harter, Chief Judge of the Calhoun County Probate Court, as chairperson. Represented on the Task Force were probate court judges, probate court registers and staff members, both houses of the Michigan Legislature, relevant executive branch agencies, several advocacy groups, the State Bar Association, academia, and members of the probate bar. [For a listing of the names of Task Force members (with their affiliation), of the SCAO staff assigned to Task Force operations, and of prominent attendees of Task Force meetings, see **Appendix A: Composition of the Task Force on Guardianships and Conservatorships.**]

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<sup>1</sup> Jeff Taylor and Daniel G. Fricker, *Firm Accused of Preying on Wards of Probate Court*, Detroit Free Press, Feb. 16, 1996, at 1A.

<sup>2</sup> The abuses led the Wayne County Probate Court to appoint a receiver, John M. Chase, Jr., to attempt recovery of assets. Chase submitted a Preliminary Report of Receiver in January of 1996.

<sup>3</sup> "We recommend that a task force be appointed as soon as possible to address procedural and administrative issues relating to guardianship and conservatorship issues statewide." SCAO Memorandum from Marilyn K. Hall, State Court Administrator, to Chief Justice James H. Brickley and other Justices, Supreme Court, May 20, 1996.

<sup>4</sup> The Representative Assembly's recommendation was the adoption of a resolution originally recommended in July of 1996 by the State Bar Association's Senior Justice Section Council. The resolution was worded as follows: "Be it resolved that the Michigan Supreme Court be asked to convene a statewide Task Force to study the current operations of the state's guardianship and conservatorship systems and make necessary recommendations for improvements to serve the state's citizens who need guardianship/conservatorship services." The Senior Justice Section Council referred to Chase's Preliminary Report in the report accompanying its recommendation.

## 1.2 Service of the Task Force

The Task Force on Guardianships and Conservatorships first convened in February, 1997. Early on the Task Force identified four sub-goals as integral to achieving the main goal of improving the guardianship and conservatorship system in Michigan:

- (1) Reduction in the use of guardianships and conservatorships;
- (2) Guarantee of an appropriate number of qualified and concerned guardians;
- (3) Guarantee of adequate monitoring of guardians and court operations; and
- (4) Institution of needed standards, training, and education.

The Task Force membership was broken up into four committees, one for each of the sub-goals. Each committee was to come up with recommendations by which its sub-goal could be reached. [For the composition of each committee, see **Appendix B: Composition of Task Force Committees.**]

The Task Force met, both as a whole and through committee meetings, throughout ten months in 1997. During that time, Task Force members considered information from a variety of sources, including the 1986 Report of the Michigan Adult Protective Services Task Force,<sup>5</sup> member-provided presentations and comments, relevant Michigan statutes, court rules, and forms, proposed Michigan legislation, statutes from other states, and data provided by the SCAO. Also considered by the Task Force were the results of two surveys which had been conceived, designed, and distributed by the body in order to provide needed, but otherwise inaccessible, information about the practice of guardianships and conservatorships. One survey was completed by county probate registers and was meant to discern the status of court operations and procedures concerning guardianship and conservatorship; the other survey was aimed at those petitioning for the appointment of a guardian, and was designed to gauge what motivated petitioners to file and whether alternatives to guardianship had been considered. [To see the survey forms mailed out for the two surveys, see **Appendix C: Survey of Court Policies and Procedures**, and **Appendix D: Survey of Guardianship and Conservatorship Petitioners.**]

At its November 1997 meeting, the Task Force as a whole reviewed the recommendations of each committee and came to a measure of consensus as to what would be recommended to the Supreme Court. The recommendations agreed upon are described in this report. Finally, at its last meeting in June of this year, the Task Force approved this report for submission to the Supreme Court.

The recommendations developed by the Task Force concern various specific aspects of the law and practice of guardianship and conservatorship. As such, the recommendations (laid out in section 3 below) are best understood against a background knowledge of the current standards in guardianship and conservatorship law and practice (presented in section 2).

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<sup>5</sup> The Michigan Adult Protective Services Task Force was appointed in January of 1985 “to study and recommend solutions to problems relating to the recruitment, training, retention, supervision and funding of qualified persons to serve as guardians for Michigan citizens requiring such support.” Report, p. 1.

## 2. Current Law and Practice concerning Guardianships and Conservatorships

### 2.1 The nature of guardianships and conservatorships

Guardianships and conservatorships are situations, recognized by law, under which one person or entity (a “guardian” or “conservator,” respectively) exercises power over, and in behalf of, another person (a “ward” or “protected person,” respectively).<sup>6</sup> A guardian controls the person of the ward, and the conservator controls the estate of the protected person.<sup>7</sup> Guardians may, in specified conditions, be appointed for an unmarried minor, a legally incapacitated person (LIP), or a developmentally disabled person (DDP).<sup>8</sup> Conservators may, in specified conditions, be appointed for a minor, a mentally incompetent person, or a physically disabled person.<sup>9</sup> A DDP may be placed under the care of a “guardian of the estate,” which is the virtual equivalent of a conservator.<sup>10</sup> A guardian’s or conservator’s powers and duties will vary with the reason for the guardianship and with the extent the ward needs oversight. [For a fuller account of the statutory and court-rule structure of what guardianships and conservatorships amount to, see **Appendix E: The Legal Basis of the Nature of Guardianships and Conservatorships.**]

In practice, those that function as guardians often are family members, public guardians, or volunteers.<sup>11</sup> Also in significant use as guardians are guardianship corporations, those under contract with the Family Independence Agency to serve as a guardian, and attorneys.<sup>12</sup> Where family members or friends are willing to serve as a person’s guardian, if a court decides to appoint someone else it is often because of a family dispute or previous exploitation of the person within the family context.<sup>13</sup> In those courts which will appoint guardianship corporations as guardians, in the vast majority of cases the appointed corporation is chosen because it was nominated on the

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<sup>6</sup> M.C.L.A. §§ 700.3-700.12.

<sup>7</sup> *Id.* Although in the standard instance this division of control holds, there can be situations where, in the absence of a conservator, the guardian must take some control of the ward’s estate in order to fulfill the guardian’s duties. This latter case is recognized in the probate court rules through reference to guardianships “where the guardian is managing property of the ward.” M.C.R. 5.715(B)(2).

<sup>8</sup> The first two types of guardian are recognized in the Revised Probate Code. See M.C.L.A. §§ 700.403-700.433, §§ 700.441-700.456. The third type of guardian is recognized in the Mental Health Code. See M.C.L.A. §§ 330.1600-330.1642.

<sup>9</sup> Conservators for any of these types of individual are recognized in the Revised Probate Code. See M.C.L.A. §§ 700.461-700.491.

<sup>10</sup> Guardians of the estate are recognized in the Mental Health Code. See M.C.L.A. §§ 330.1600-330.1642. “Guardians” of a DDP are known as “guardians of the person.”

<sup>11</sup> Task Force on Guardianship and Conservatorship, Results of Survey of Court Policies and Procedures, August, 1997. Seventy-nine (79) of Michigan’s eighty-three (83) counties are represented in the results of the survey.

<sup>12</sup> *Id.*

<sup>13</sup> *Id.* Seventy-four (74) of the responding counties cited the existence of a family dispute as a reason used not to appoint a family member as guardian. Sixty-one (61) counties cited previous intra family abuse as another such reason.

guardianship petition.<sup>14</sup> Limited guardianships often arise through the court making such a determination based on the would-be ward's performance at the guardianship hearing, although a significant number of courts limit a guardian's powers only if the appointed guardian ad litem recommends such a limitation in his or her report.<sup>15</sup>

## 2.2 The creation of guardianships and conservatorships

Of the five types of guardianships and conservatorships – i.e., those involving a guardian for a minor, a guardian for a LIP, a guardian of the person for a DDP, a guardian of the estate for a DDP, and a conservator – the first four can be created via the probated will of a deceased parent or spouse.<sup>16</sup> All five types can be created through a petition and hearing process.<sup>17</sup> The vast majority of guardians and conservators are appointed through the petition and hearing process, the standards for which are complex. [For details on the petition and hearing process governing the appointment of guardians and conservators, see **Appendix F: The Legal Basis for the Creation of Guardianships and Conservatorships.**]

The vast majority of those that end up petitioning the court to appoint a guardian or a conservator for some person are either related to the person or are a friend.<sup>18</sup> However, most petitioners do not come to the decision to seek guardianship or conservatorship on their own, but are encouraged to do so by someone else – usually a doctor or a social worker from either a hospital or nursing home.<sup>19</sup> Oftentimes the person encouraged to file a petition is told that a guardianship or conservatorship is needed in order to make medical decisions and provide treatment to the person, to manage the person's finances, or to admit or keep a person in a nursing home.<sup>20</sup> Sometimes the person encouraged to file a petition is told that alternatives to guardianship or conservatorship are not adequate.<sup>21</sup>

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<sup>14</sup> *Id.* Of the twenty (20) responding counties in which corporate guardians are appointed, and where there is more than one corporation, sixteen (16) specified that the decision on which corporate guardian to appoint is based on which corporation is nominated in the petition.

<sup>15</sup> *Id.* Sixty (60) responding counties will create limited guardianships based on in-court examination of the would-be ward; forty-one (41) require a recommendation for limitation from the guardian ad litem before considering a limited guardianship.

<sup>16</sup> M.C.L.A. §§ 700.422, 700.441, 330.1642. Standards governing the testamentary appointment of a guardian for a LIP, or of either type of guardian for a DDP, are found, in part, in M.C.R. 5.765(C), 5.766.

<sup>17</sup> Such petitions are governed by M.C.R. 5.113. Importantly, a temporary guardian may be appointed “only in the course of a proceeding for permanent guardianship.” M.C.R. 5.763(A).

<sup>18</sup> Task Force on Guardianships and Conservatorships, Results of Survey of Guardianship and Conservatorship Petitioners, August, 1997. There were seventy-eight (78) respondents.

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> *Id.* The formation of a medical durable power of attorney appears to be the alternative most considered; others also considered are the formation of a joint bank account, the petitioner becoming a Social Security Representative Payee, and the formation of a financial durable power of attorney.

### 2.3 The management of guardianships and conservatorships

Once a guardian or conservator has been appointed, the resulting guardianship or conservatorship requires some measure of monitoring and often some amount of alteration.<sup>22</sup> Regarding a guardianship for a minor, the court conducts reviews as it considers necessary (although for minors under 6 years of age such a review is at least annual).<sup>23</sup> The review will investigate the past performance and future ability of the guardian for the minor and the reasons, if any, for continuing the guardianship.<sup>24</sup> The court may order an investigation of the guardianship.<sup>25</sup> In the case of a guardianship for a LIP, the court must conduct a review “not later than 1 year after the appointment of the guardian and not later than every 3 years thereafter.”<sup>26</sup> Where some type of guardian for a DDP has been appointed, the court monitors the guardianship or conservatorship through a review of the guardian’s report.<sup>27</sup> As assurance that a conservator will discharge all his or her duties, he or she may be required to furnish a bond.<sup>28</sup>

Michigan’s probate courts have various systems in place for the monitoring of guardianships and conservatorships. However, two-thirds of the courts do not keep a statistical record of the total number of guardianships and of the percentage or number of these which are limited.<sup>29</sup> Furthermore, over a third of the probate courts do not provide any feedback to guardians or conservators concerning their performance.<sup>30</sup>

## 3. Recommendations of the Task Force

The eleven recommendations of the Task Force on Guardianships and Conservatorships are of three different types. Some are recommendations on how to reduce unnecessary petitions for guardianships and conservatorships, some are recommendations on how to reduce unnecessary

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<sup>22</sup> Beyond the statutory standards, the court’s monitoring procedure, in a situation where “it appears to the court that the fiduciary is not properly administering the estate,” is governed by M.C.R. 5.717.

<sup>23</sup> M.C.L.A. § 700.424b(1) (1995). For more detail, see M.C.R. 5.764(D)(1).

<sup>24</sup> M.C.L.A. § 700.424b(1)(a) (1995).

<sup>25</sup> M.C.L.A. § 700.424b(2) (1995). Also see M.C.R. 5.764(D)(2).

<sup>26</sup> M.C.L.A. § 700.446a (1995). Further standards governing the periodic review of a guardianship for a legally incapacitated person are found in M.C.R. 5.768(A). M.C.R. 5.768(A)(3),(4) contemplates the possibility of a court modifying such a guardianship. Standards governing the process by which such modification occurs are found in M.C.R. 5.768(B).

<sup>27</sup> M.C.L.A. § 330.1631(4) (1992).

<sup>28</sup> M.C.L.A. § 700.471 (1995).

<sup>29</sup> Task Force on Guardianships and Conservatorships, Results of Survey of Court Policies and Procedures, August, 1997.

<sup>30</sup> *Id.*

appointments of guardians and conservators, and some are recommendations on how better to manage guardianships and conservatorships.<sup>31</sup>

### **3.1 Recommendations on how to reduce unnecessary petitions for guardianships and conservatorships**

Four Task Force recommendations address how to keep those people involved in situations where a guardianship or conservatorship is unnecessary from ever filing a petition for the appointment of a guardian or conservator.

**RECOMMENDATION 1: Each county should establish a local resource for citizens to help assess the need for guardianships and conservatorships, to share resources, to resolve issues outside the probate court system, and to assist in developing alternatives to guardianships and conservatorships.**

**RECOMMENDATION 2: Existing statutory provisions for medical treatment decisions are inadequate or not recognized by many, and therefore, legislation should be explored.**<sup>32</sup>

**RECOMMENDATION 3: A broad education effort emphasizing the presumption of competency and alternatives to guardianship should be targeted particularly at hospitals, nursing homes, and other medical or psychological personnel.**<sup>33</sup>

**RECOMMENDATION 4: Statutes and court rules should be changed so as to clarify that decisions of patient advocates have priority over all other substitute decision makers.**

### **3.2 Recommendations on how to reduce unnecessary appointments of guardians and conservators**

Even with a system in place to prevent unnecessary guardianships or conservatorships from ever being requested, there will be some petitions for the appointment of a guardian or a conservator

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<sup>31</sup> Task Force committees 1 and 2 (i.e., those with ‘reduction in the use of guardianships and conservatorships’ and ‘guarantee of an appropriate number of qualified and concerned guardians’ as their respective targeted sub-goal) worked towards recommendations on the reduction of unnecessary petitions and appointments. Committee 3 (i.e., with ‘guarantee of adequate monitoring of guardians and court operations’ as its targeted sub-goal) worked towards recommendations on the better management of guardianships and conservatorships. Committee 4 (i.e., with ‘institution of needed standards, training, and education’ as its targeted sub-goal) worked toward recommendations which fit within all three areas.

<sup>32</sup> One type of relevant legislation (although other types exist and have been enacted in other states) would enact a law which would give, in the interests of someone just judged to be unable to make medical treatment decisions, and only under certain circumstances, a particular family member or other person the power to make treatment decisions for the incapacitated individual. Such legislation was proposed in the Michigan House of Representatives in 1992 as House Bill No. 5553 (“Michigan Medical Treatment Decisions Act”). [For more information, see **Appendix G: Summary of 1992 Michigan Medical Treatment Decisions Bill.**]

<sup>33</sup> Part of the reason why hospitals and nursing homes may unduly suggest or require the appointment of a guardian or conservator may be a perception on these institutions’ part that the 1987 federal Nursing Home Reform Amendments (NHRA) force them to do so. This perception may be encouraged by the explanation of the 1990 federal regulations implementing the NHRA included in a February 1991 letter from the Bureau of Health Services (BHS), even though the February letter was corrected by a letter sent later that year in November. [For more on the November 1991 BHS communication, see **Appendix H: Bureau of Health Systems Letter and Patient Guide.**]

which clearly should not be approved. Three Task Force recommendations are aimed at reducing the number of inappropriate petitions which end up being approved.

**RECOMMENDATION 5: Probate Court forms used for petitioning the court for, and ordering the appointment of, a guardian or conservator should be amended so as to provide for, respectively, more screening information and separate findings on functional capacity and the necessity for the appointment.<sup>34</sup>**

**RECOMMENDATION 6: Guardians ad litem should include information evaluating functional capacity in their investigations and reports to the court, and should recommend the use of mediation services to resolve disputes which may come up over the terms of a prospective guardianship.**

**RECOMMENDATION 7: Judges should have their initial mandatory training supplemented with instruction on cognitive and physical impairments, mental illness, and the aging process, and should periodically be required to receive subsequent training which both refreshes old standards and introduces new issues.**

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<sup>34</sup> All probate court forms relevant to a recommendation in this report are collected together and may be reviewed at **Appendix I: Relevant Probate Court Forms.**



### **3.3 Recommendations on how better to manage guardianships and conservatorships**

Once a guardian or conservator has been appointed, or once the need for a guardian or conservator is clear, standards should be brought to bear on how that guardianship or conservatorship is managed. Four Task Force recommendations focus on improving the management of guardianships and conservatorships.

**RECOMMENDATION 8: Minimum ethical standards for professional guardians and professional conservators should be promulgated and enforced.**

**RECOMMENDATION 9: Those courts failing to follow statutory and court rule requirements should be compelled by the Supreme Court to comply.**

**RECOMMENDATION 10: Statutes, court rules, forms, and practice should be changed so as to require the court to review the annual accountings of guardians and conservators, order bonds or restrictions in relation to property and estates, and confirm both the decision to sell real estate and the sale price.**

**RECOMMENDATION 11: Courts should increase the recruitment and training of volunteer guardians, and more guardians who are state-agency-funded and -monitored should be provided as guardians of last resort.**

## **4. Conclusion**

In late 1996, the Supreme Court appointed the Task Force on Guardianships and Conservatorships, charging it with the mission of finding ways to improve the guardianship and conservatorship system in Michigan. After over a-year-and-a-half of service, and after several meetings, the Task Force has fulfilled its mission. Consensus has formed around eleven recommendations, and the Task Force believes that if they are enacted the processes by which guardianships and conservatorships are screened, appointed, and managed will be improved.

Many of the recommendations may increase costs to the local funding units or state agencies. Implementation of such recommendations must only be done with a corresponding increase in appropriations to cover costs to avoid any unfunded mandates.

**APPENDIX A:  
COMPOSITION OF TASK FORCE  
ON GUARDIANSHIPS AND CONSERVATORSHIPS**

The Michigan Supreme Court appointed 25 people to the Task Force on Guardianships and Conservatorships. Three probate judges were appointed, including the Honorable Phillip E. Harter, Chief Judge of the Calhoun County Probate Court, as chairperson (the other two judges were the Honorable Milton Mack, Jr., Wayne County Probate Court, and the Honorable Frederick Mulhauser, Emmet and Charlevoix Counties Probate Court). One former judge – the Honorable James S. Casey, formerly of the Kalamazoo County Probate Court – was appointed to the Task Force. Also appointed were two probate court registers (Janelle Lawless, Ingham County Probate Register, and Jeanne Takenaga, Wayne County Probate Register) and a probate court staff member (Bradley Geller, Program Coordinator, Washtenaw County Volunteer Guardian Program).

The other two branches of the state government were also represented on the Task Force. From the legislative branch, one state senator (Christopher Dingell, Democrat from Trenton, Vice-Chair, Senate Judiciary Committee) and two state representatives (Andrew Richner, Republican from Grosse Pointe Park, and Karen Willard, Democrat from Clay Township, House Judiciary and Civil Rights Committee) were appointed. Representing the executive branch were two persons each from the Family Independence Agency (Robert Cecil, Director, Office of Adult Services, and Knud Hansen, Adult Community Placement and Protective Services Division Manager, Office of Adult Services) and the Department of Community Health (Virginia R. Harmon, Deputy Director, Community Living, Children and Families, and Cherie Mollison, Advocacy Services Section, Research, Advocacy and Program Development Division, Office of Services to the Aging).

Several advocacy groups had members appointed to the Task Force. Guardianship-based and senior-citizen-based groups represented include Michigan Guardianship Association (Carol Henny, President), the Center for Social Gerontology (Penelope Hommel, Director), and the American Association of Retired Persons (Joan King). Also having Task Force members were Citizens for Better Care (Michael Connors, Project Director), Michigan Protection and Advocacy Service (Kathleen Harris, Staff Attorney), the Washtenaw Association for Community Advocacy (Dohn Hoyle, Director), and the State Long-Term Care Ombudsman (Hollis Turnham).

The State Bar Association, academia, and a local probate bar also provided the Task Force with membership. Appointed to the Task Force were a representative from the Michigan State Bar Association's Senior Justice Section Council (Kathleen Williams Newell, President), a former university professor (Carolyn Thomas, former Professor of Sociology, Michigan State University), and two attorneys active in the Wayne County probate bar (Thomas Trainer and Adam Shakoor).

State Court Administrative Office staff assigned to the Task Force included Jack C. Crandall (Region Four Administrator), William H. Newhouse (Manager, Probate Court Services), Priscilla Cheever (Probate Court Services; assigned through the end of 1997), and Deborah Marks (Probate Court Services). Janet Welch, Legal Counsel to the Supreme Court, also participated in Task Force meetings, as did Stephen Geskey, a member of the House Democratic Policy Staff.

**APPENDIX B:  
COMPOSITION OF TASK FORCE COMMITTEES**

**Committee 1  
(Reduction in the use of guardianships and conservatorships)**

Penelope Hommel, Chair	Hon. James S. Casey	Bradley Geller
Kathleen Harris	Dohn Hoyle	Janelle Lawless
Cherie Mollison	Adam Shakoor	Hollis Turnham

**Committee 2  
(Guarantee of an appropriate number of qualified and concerned guardians)**

Carol Henny, Chair	Bradley Geller	Knud Hansen
Jeanne Takenaga	Rep. Karen Willard	

**Committee 3  
(Guarantee of adequate monitoring of guardians and court operations)**

Virginia Harmon, Chair	Michael Connors	Sen. Christopher Dingell
Bradley Geller	Kathleen Harris	Joan King
Hon. Milton Mack, Jr.	Rep. Karen Willard	

**Committee 4  
(Institution of needed standards, training, and education)**

Janelle Lawless, Chair	Robert Cecil	Bradley Geller
Knud Hansen	Penelope Hommel	Hon. Frederick Mulhauser
Katherine Williams	Carolyn Thomas	Thomas Trainer
Newell		

## **APPENDIX C: SURVEY OF COURT POLICIES AND PROCEDURES**

This appendix contains a copy of the survey form designed and used by the Task Force on Guardianships and Conservatorships to gain information on relevant court policies and procedures. Some of the results from the use of this form are reported in sub-sections 2.1 and 2.3 of the Final Report of the Task Force.

The survey form seeking information on court policies and procedures was to completed by a probate court administrator or register.[However, the survey forms returned from two county probate courts – those in Delta and Dickinson counties – were completed entirely by judges.] Only four probate courts failed to provide survey information, and thus were not part of the survey results. Those four courts were the probate courts for Gogebic, Ogemaw, Presque Isle, and Van Buren counties.

On the survey form, forty-three questions were posed concerning five different topics. Concerning the appointment and payment of guardians ad litem, eleven questions were posed, while two questions were asked about the appointment of attorneys. Twenty-five questions concerned two aspects of guardianships – nine on the choice of guardian, and sixteen on the periodic review of guardianships and annual accounts. Five questions were posed relating to the practice in the county concerning the earmarking of funds for processing adult guardianship cases.

## SURVEY

Name of Court: \_\_\_\_\_

Name and Title of Person(s) Filling out Survey:

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### PART ONE COURT POLICIES AND PROCEDURES (To Be Answered by Probate Court Administrators or Registers)

#### **A. Appointment and Payment of Guardian Ad Litem**

1. In adult guardianships or adult conservatorships, under what circumstances would you appoint a Guardian ad Litem?

☐ Initial hearing

☐ Review

☐ Complaint by interested party

☐ Petition to Modify

☐ Other, please specify: \_\_\_\_\_

2. Who does the court use as guardians ad litem? (If more than one checkbox, please give approximate percentage)

☐ Attorneys \_\_\_\_\_

☐ Nurse \_\_\_\_\_

☐ Court staff \_\_\_\_\_

☐ Layperson or Volunteer \_\_\_\_\_

☐ Social worker/mental health professional \_\_\_\_\_

☐ Other, please specify: \_\_\_\_\_

3. When appointing a GAL or appointed counsel in a specific case, who in the court chooses what individual will serve?

☐ Probate court staff

☐ Judge

☐ Petitioner

☐ Other, please specify: \_\_\_\_\_

4. What method does that court person use in choosing the particular GAL or attorney to serve?

☐ Rotating list

☐ A designated GAL gets all petitions scheduled for a particular hearing date.

☐ A designated GAL gets all Petitions coming from a particular location or source.

☐ Other, please specify: \_\_\_\_\_

☐ Choose GAL with qualifications for particular kind of case, i.e. new attorneys for easy cases; experienced attorneys for complicated cases or family disputes; mental health professionals for cases with history of mental illness.

5. If the court maintains a list of individuals for appointment as GAL or attorney, how does someone get his or her name on the list?

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5a. Under what circumstances are names removed from the appointment list?

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6. Please list any specific qualifications or training required as a condition of getting on the appointment list:

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7. In what instances does the court pay for the GAL?

☐ No estate

☐ No estate and petitioner won't or can't pay

☐ Other, please specify: \_\_\_\_\_

7a. The court pays GAL fees at:

☐ Hourly rate of \$ \_\_\_\_\_

☐ Per case fixed fee of \$ \_\_\_\_\_

☐ Contract in the amount of \$ \_\_\_\_\_ per year

☐ Other, please specify: \_\_\_\_\_

7b. Does the court require an itemized billing statement to be submitted?

☐ Yes

☐ No

☐ Other, please specify: \_\_\_\_\_

8. In what instances is the estate of the person billed for the GAL fee?

☐ Always bill estate if there is one

☐ Bill estate if above \$ \_\_\_\_\_

☐ Other, please specify: \_\_\_\_\_

8a. If the estate is billed:

☐ The Court sends the bill

☐ The GAL bills directly

8b. If the estate is billed, does the court require an itemized billing statement to be sent?

☐ Yes, to petitioner only

☐ No

☐ Yes, to petitioner, with a copy sent to court

☐ Other, please specify: \_\_\_\_\_

9. Does the court limit how much an estate can be billed for GAL services?

☐ Yes, \$ \_\_\_\_\_ per hour

☐ Yes, \$ \_\_\_\_\_ per case

☐ No

☐ Other, please specify: \_\_\_\_\_

10. How much does the court pay each year for GAL and appointment of counsel in adult guardianship and conservatorship cases (including PWDD, formerly DDP)?

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11. Are records kept as to how much the court and estates pay per year to each individual or firm appointed as GAL or attorney in adult guardianships or conservatorships?

☐ Yes, court keeps records of individual totals from both the county and estates.

☐ No, county pays from single "court-appointed" line item which includes other GAL and attorney services to the court

☐ No, court does not track totals which are paid by estates.

**B. Appointment of Attorney**

1. If the person requests an attorney to contest the petition, the court would appoint:

☐ The GAL, if GAL is an attorney

☐ A different attorney, not GAL, if GAL is an attorney

☐ Other, please specify: \_\_\_\_\_

2. Does the court limit how much an attorney can charge for services?

☐ Yes, \$ \_\_\_\_\_ per hour

☐ Yes, \$ \_\_\_\_\_ per case

☐ Yes, contract for attorney services in the amount of \$ \_\_\_\_\_ per year

☐ No

☐ Other, please specify: \_\_\_\_\_

**C. Choice of Guardian**

1. If the appointment of a guardian is appropriate, but an individual has no family or friend to serve, the court appoints: (If more than one checkbox, please give approximate percentage.)

☐ county public guardian or public administrator \_\_\_\_\_

☐ volunteer \_\_\_\_\_

☐ attorney \_\_\_\_\_

☐ FIA-contracted guardian \_\_\_\_\_

☐ profit or non-profit guardianship corporation \_\_\_\_\_

☐ other, please specify: \_\_\_\_\_

2. If the court appoints guardianship corporations and there is more than one corporation, how does the court decide who is to serve?

☐ Court does not appoint corporate guardians

☐ Nominated in Petition

☐ Rotating list

☐ Other, please specify: \_\_\_\_\_



3. If an individual has a family member or friend who was willing to serve, under what circumstances would the court appoint someone other than the family member or friend?

☐ Family dispute

☐ Family unlikely to be able to  
comply with reporting and  
accounting requirements

☐ Previous exploitation by family

☐ Other, please specify: \_\_\_\_\_

4. What training or qualifications are required by the court for appointment as a professional guardian or conservator?

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5. Does the court provide any feedback on performance to the guardians or conservators, whether family or professional?

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6. If the Petition requests that a full guardian be appointed, under what circumstances would the court appoint a limited guardian instead? (May check more than one box.)

☐ Would never appoint limited guardian if petition  
if petition asked for full.

☐ Would limit powers only if specifically  
recommended by GAL report.

☐ Would limit powers if alleged LIP attended  
hearing and court determined during hearing  
that this would be in ward's best interest.

☐ Other, please specify: \_\_\_\_\_

7. Does the court require documentation from a personal physician regarding the person's alleged incompetence in guardianship cases?

☐ No

☐ Yes, brief note is acceptable

☐ Yes, require letter from physician beyond  
note stating opinion as to guardianship.

☐ Yes, require GAL to discuss specific problems  
with treating physician, using PC 39b,  
Report of Physician/Mental Health Professional  
of Alleged Legally Incapacitated Person.

8. Does the court keep a statistical record of the total number of adult guardianships and the percentage or number that are limited?

☐ Yes

☐ No

☐ Other, please specify: \_\_\_\_\_

9. What procedures does the court use in limited guardianships of PWDD (formerly DDP) when the 5-year term has expired?

\_\_\_\_\_

\_\_\_\_\_

### **C. Periodic Review of Guardianships and Annual Accounts**

1. Who performs the review:

☐ Court staff

☐ Attorney

☐ Social worker or mental health professional

☐ Layperson

☐ Other, please specify: \_\_\_\_\_

2. How much is he or she paid per review? \_\_\_\_\_

3. How much do periodic reviews cost the court each year? \_\_\_\_\_

☐ Amount includes reviews of minor guardianships

☐ Amount is for adult LIP reviews only

4. If the estate is billed for the review, is the rate the same as the court would pay?

☐ Yes

☐ No

☐ Other, please specify: \_\_\_\_\_

5. Does the court or county keep a cumulative total of how much each individual or corporation is paid for adult guardianship reviews on a yearly basis?

☐ Yes

☐ No

☐ Other, please specify: \_\_\_\_\_

6. Does the review include a visit to the LIP in all cases?

☐ Yes

☐ No

If no, what are the reasons why a visit would not be included in the review?

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7. Who among the court staff reads the annual report filed by the guardian?

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8. Are guardians of the person ever required to file annual accounts?

☐ Yes (please describe circumstances)

☐ No

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9. Does the court require an annual account to be filed each year in all conservatorships, including restricted accounts?

☐ Yes

☐ No, please give specifics:

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10. Who among court staff reviews annual accounts filed by conservators?

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11. Does the court require any verification of the account, such as tax returns, bank statements or receipts?

☐ Always

☐ Never

☐ Sometimes (please describe circumstances)

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12. When would the court require a bond in a conservatorship?

☐ If there is real estate

☐ If the conservator is not a family member

☐ If the estate exceeds \$\_\_\_\_\_

☐ Other, please specify: \_\_\_\_\_

13. If there is a bond, does the court require yearly verification that the bond is still in effect?

☐ Yes

☐ No

☐ Other, please specify: \_\_\_\_\_

14. Does the court appoint a GAL to review the account?

☐ Every year

☐ Periodically, but not every year

☐ Only if an interested party or court staff think there is a problem

☐ Never

15. Does the court hold a hearing on allowance of accounts every year?

☐ Yes

☐ No (Please state when hearing would be held)

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16. Does the court have a policy regarding the amount of guardian or fiduciary fees it will allow?

☐ A percentage of the ward's income

☐ A standard monthly amount

☐ Fiduciary's normal hourly rate for his or her occupation for itemized services performed

☐ Whatever is requested unless GAL or other interested party object

☐ Other, please specify: \_\_\_\_\_

**D. Fees Required by MCL 600.880b and 600.880c to be Applied to the Expenses of Adult Guardianships** (These fees are the county half of the \$15 motion fee, and the fees for appeals, trusts, and wills for safekeeping.)

1. Does your funding unit allocate these funds to the court over and above the court's general appropriation?

☐ Yes

☐ No

☐ Other, please specify: \_\_\_\_\_

2. If so, how much did you receive in 1996?

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3. What were these funds used for?

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4. If your county does not earmark revenue from these fees, do you nevertheless know about how much would be generated each year?

☐ Yes, \$ \_\_\_\_\_

☐ No

5. Do you have any additional comments or suggestions regarding improvements in court procedures dealing with guardianship and conservatorships?

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## **APPENDIX D: SURVEY OF GUARDIANSHIPS AND CONSERVATORSHIP PETITIONERS**

This appendix contains a copy of the ten-question survey form designed and used by the Task Force on Guardianships and Conservatorships to gain information on the conditions under which people petition for the appointment of guardians and conservators. Some of the results from the use of this form are reported in subsection 2.2 of the Final Report of the Task Force.

The survey form seeking information on guardianship and conservatorship petitioners was mailed to some individuals filing petitions in June, 1997. Seventy-eight petitioners responded to the survey, representing twenty-five counties. Those counties represented included Oakland (10 respondents), Macomb (9), Wayne (8), Lenawee (5), Allegan (4), Genessee (4), Ingham (4), St. Clair (4), Calhoun (3), Charlevoix (3), Marquette (3), Monroe (3), Ottawa (3), Alpena (2), Gladwin (2), Luce (2), Bay (1), Chippewa (1), Livingston (1), Mackinac (1), Midland (1), Missaukee (1), Montmorency (1), Roscommon (1), and Shiawassee (1).

**PART TWO**  
**QUESTIONNAIRE FOR GUARDIANSHIP OR CONSERVATORSHIP PETITIONS**  
**FILED THE WEEKS OF JUNE 16TH AND JUNE 23RD\_**

**WOULD YOU PLEASE HELP US?**

A Guardianship Task Force has been convened to help the Supreme Court and the Michigan Legislature decide if changes in the law are needed to improve adult guardianship and conservatorship procedures. Information from you will be useful in understanding how petitions come to be filed in the Probate Court and what other alternatives you explored before deciding on petitioning for a Guardianship or Conservatorship. You can help the Task Force by taking a few minutes now to answer the following questions about your Petition for the Appointment of a Guardian or a Conservator. When you have finished, please give the questionnaire back to the court staff and they will send it to us.

1. What county are you filing your petition in: \_\_\_\_\_

2. Are you filing:

☐ A petition for guardianship

☐ A petition for a conservatorship

☐ Both a guardianship and a conservatorship

3. Are you petitioning for:

☐ full guardianship

☐ limited guardianship

3a. If a limited guardianship, please list the powers you are seeking:

☐ Medical decision-making or  
consent to treatment

☐ Placement in a nursing home

☐ Manage finances, pay bills

☐ Apply for benefits

☐ Other, please specify: \_\_\_\_\_

3b. If a full guardianship, please describe why you feel a limited guardianship would not work:

☐ Don't want to have to go back to  
court again to ask for more authority

☐ Person has not been cooperative with  
other kinds of arrangements

☐ Don't know the difference between  
full and limited guardianship/  
conservatorship

☐ Other, please specify: \_\_\_\_\_

4. What is the age of the person for whom you are petitioning for a guardian or conservator? \_\_\_\_\_

5. Where is the person for whom you are petitioning for a guardian or conservator living? (If the person is in a hospital right now, please choose where they lived before they went to the hospital.)

☐ Their own home or apartment

☐ With family or friend

☐ Group or Adult Foster Care home

☐ Nursing home

☐ Other, please specify \_\_\_\_\_

6. What is your relationship to the person for whom you are petitioning for a guardian or conservator?

☐ Spouse

☐ Adult child

☐ Other family member or friend

☐ Hospital or nursing home social worker

☐ Adult Protective Services or  
Community Mental Health worker

☐ Employee of guardianship  
services provider

☐ Other, please specify \_\_\_\_\_

7. Were you encouraged or told to file a Petition for Guardianship or Conservatorship by someone else?

☐ Yes, by:

☐ No

☐ doctor

☐ nurse

☐ hospital social worker

☐ nursing home administrator

☐ nursing home social worker

☐ bank or credit union staff

☐ retirement or pension fund staff

☐ attorney

☐ Adult Protective Services or  
Community Mental Health worker

☐ Other, please specify: \_\_\_\_\_



7a. If yes, what reason did they give you for the need for a Guardian or Conservator?

- ☐ Necessary to admit or keep the person in a nursing home
- ☐ Necessary to make medical decisions and provide treatment to the person
- ☐ Necessary to manage finances and pay bills for the person
- ☐ Necessary for the person to apply for or receive pension or retirement benefits
- ☐ Other, please specify: \_\_\_\_\_

8. What specific event or reasons caused someone else to suggest or you to decide to file a Petition for Guardianship or Conservatorship?

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8a. What are you trying to achieve for the person through a Guardianship or Conservatorship?

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9. If you are asking that some other person or guardianship services provider than yourself be appointed as Guardian or Conservator, how did you decide to choose that person or service provider?

- |   |   |
|---|---|
| <input type="checkbox"/> Other family member or friend was willing to do it                   | <input type="checkbox"/> Saw advertisement or brochure from guardianship service provider |
| <input type="checkbox"/> Recommended by doctor or hospital                                    | <input type="checkbox"/> Recommended by nursing home                                      |
| <input type="checkbox"/> Recommended by attorney  | <input type="checkbox"/> Referred by court staff  |
| <input type="checkbox"/> Other person or service provider was already working with the person |   |
| <input type="checkbox"/> Other reason, please specify: _____                                  |   |

10. What other methods of helping the person you believe needs a guardian or conservator did you consider or try before petitioning for a guardianship or conservatorship?

☐ Medical durable power of attorney

☐ Financial durable power of attorney

☐ Living will

☐ Social Security Representative Payee

☐ Joint bank account

☐ Other, please specify: \_\_\_\_\_

10a. If you did consider or try other solutions, why were they not adequate to solve the problem?

☐ Doctor or hospital said it was not enough

☐ Nursing home said it was not enough

☐ Bank or other financial institution said it was not enough

☐ Pension fund said it was not enough

☐ Person I believe needs a guardian or conservator cancelled services I arranged

☐ Person continued to be taken advantage of by someone else

☐ Other, please specify: \_\_\_\_\_

**THANK YOU VERY MUCH FOR YOUR HELP TO THE**  
**GUARDIANSHIP TASK FORCE**

**APPENDIX E:  
THE LEGAL BASIS  
OF THE NATURE OF GUARDIANSHIPS AND CONSERVATORSHIPS**

A guardian or conservator, depending on the situation, can have a range of powers and duties. By balancing the relevant person's need for care and his or her right to independence, the proper powers and duties can be assigned.

A guardian for a minor can either be a "full guardian" (usually referred to as simply "guardian"), with all the powers and duties allowed by law, or a "limited guardian," with only some of those power and duties.<sup>1</sup> Both types of guardian for a minor can expressly be designated as "temporary."<sup>2</sup> Among the powers invested in a full guardian for a minor are those powers normally possessed by a parent as well as the power to receive funds or property either for the support of the ward or due personally to the ward.<sup>3</sup> The duties of a full guardian for a minor include normal parental responsibilities as well as the duties to manage personal property and funds reasonably, facilitate the ward's education and social activities, and, as required, report to the court on the condition of the ward, on that portion of the ward's property under his or her control, and (at least once a year) on financial transactions made in relation to the guardianship.<sup>4</sup>

A guardian for a legally incapacitated person (LIP) can, as in the case of a guardian for a minor, either be "full" or "limited."<sup>5</sup> Also in similarity to the situation with guardians for minors, both types of guardian for a LIP can expressly be designated as "temporary."<sup>6</sup> The powers of a full guardian of a LIP include the power to establish the ward's place of residence, consent to medical or other treatment for the ward, and decide how to use money and

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<sup>1</sup> M.C.L.A. §§ 700.424a, 700.431. Limited guardians for minors are partly governed by M.C.R. 5.764(A),(B).

<sup>2</sup> M.C.R. 5.763(D). Of course, any guardianship for a minor automatically terminates upon the minor's attainment of majority (and thus such a guardianship is by its nature temporary), and so a "temporary guardian for a minor" must be understood to be appointed for a period of time initially contemplated to end before the ward's attainment of majority. See M.C.L.A. § 700.433.

<sup>3</sup> M.C.L.A. § 700.431 (1995).

<sup>4</sup> M.C.L.A. §§ 700.431, 700.563 (1995). Further standards on the report (or possible inventory) a guardian for a minor must submit to the court are found in M.C.R. 5.769(A),(B).

<sup>5</sup> M.C.L.A. § 700.444.

<sup>6</sup> M.C.L.A. § 700.453. The appointment of a temporary guardian of a LIP is partly governed by M.C.R. 5.763(C).

tangible property due the ward for the latter's support, care, and education.<sup>7</sup> A full guardian for a LIP has the following duties (among others): to make provision for the care, comfort, and maintenance of the ward; to take reasonable care of the ward's personal effects; to exercise care to conserve any excess funds; and to report to the court, at least once every year, as to the ward's condition, living arrangements, and recent treatment and services, as well as financial transactions made in relation to the guardianship.<sup>8</sup>

A conservator can be appointed for any one of three types of individual -- a minor, a mentally incompetent person, or a physically disabled person. A conservator has the power to invest or sell parts of the protected person's estate, purchase assets for the estate, change structures or land in the estate, or employ individuals for the purpose of managing the estate.<sup>9</sup> Aside from having duties to protect the protected person's estate, pay taxes on the estate, and insure the estate where needed, a conservator must, at least once a year, make an accounting to the court of financial transactions made in relation to the management of the estate.<sup>10</sup> A conservator's powers and duties may be enlarged or limited.<sup>11</sup>

A guardian for a developmentally disabled person (DDP) is either "plenary" or "partial." Technically, plenary and partial guardians for DDPs can either have powers and duties akin to those possessed by "guardians" (as in guardians for minors or guardians for LIPs), and be called "guardians of the person," or they can have powers and duties akin to those possessed by conservators, and be called "guardians of the estate," or they can have a combination of such powers and duties.<sup>12</sup> The distinction between a plenary and partial guardian for a DDP is similar to that between full and limited guardians for minors and for LIPs.<sup>13</sup> Temporary guardians for DDPs are also possible.<sup>14</sup>

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<sup>7</sup> M.C.L.A. § 700.455 (1995).

<sup>8</sup> M.C.L.A. §§ 700.455, 700.563 (1995). Further standards on the report (and possible inventory) a guardian of a LIP must submit to the court are found in M.C.R. 5.769(A),(B).

<sup>9</sup> M.C.L.A. § 700.484 (1995).

<sup>10</sup> M.C.L.A. §§ 700.484, 700.563 (1995). Further standards governing the accounting a conservator must submit to the court are found in M.C.R. 5.769(C).

<sup>11</sup> M.C.L.A. § 700.486.

<sup>12</sup> M.C.L.A. § 330.1607.

<sup>13</sup> Compare M.C.L.A. § 330.1600(j) (1992) with M.C.L.A. § 700.8(3) (1995).

<sup>14</sup> M.C.L.A. § 330.1607.

The powers of plenary guardians of the person, and of the estate, for a DDP, are directly analogous to the powers of full guardians of LIPs and conservators, respectively.<sup>15</sup> The duties of a guardian of the person for a DDP, however, are independently specified, and they include the duty to make provision for the ward's care, comfort, and maintenance, the duty to make a reasonable effort to secure services "as are appropriate and as will assist the ward in the development of maximum self-reliance and independence," and the duty to report to the court, at least once every year, on the ward's condition, living arrangements, and recent treatment and services, as well as on the financial transactions made by the guardian the ward's estate.<sup>16</sup>

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<sup>15</sup> M.C.L.A. §§ 330.1600, 330.1631 (1992). "'Plenary guardian' means a guardian who possesses the legal rights and powers of a full guardian of the person, or of the estate, or both." M.C.L.A. § 330.1600(i) (1992).

<sup>16</sup> M.C.L.A. §§ 330.1631 (1992), 700.563 (1995). Further standards governing the report (or possible inventory) a guardian of the person for a DDP must submit to the court are found in M.C.R. 5.769(A),(B). A guardian for an estate has the same range of duties (with modifications to the context) as are impressed on a guardian for the person.

**APPENDIX F:  
THE LEGAL BASIS  
FOR THE CREATION OF GUARDIANSHIPS AND CONSERVATORSHIPS**

Most guardianships and conservatorships are created through the court appointing some entity to be guardian or conservator. Such appointment comes after a petition for appointment has been made to the court and after the court has held a hearing on that petition.

In the hearing process following the petition for the appointment of a guardian for a minor, the court is to determine that “the welfare of the minor will be served by the requested appointment.”<sup>1</sup> If before or during the hearing the court believes that the interests of the minor are not adequately being represented, then an attorney may be appointed for such representation.<sup>2</sup>

In a hearing on a petition for the appointment of a guardian for a LIP, “(t)he court may appoint a guardian if it is satisfied by clear and convincing evidence that the person for whom a guardian is sought is a legally incapacitated person, and that the appointment is necessary as a means of providing continuing care and supervision of the person of the legally incapacitated person.”<sup>3</sup> If, upon the filing of the petition, the alleged LIP is not represented by counsel, then the court will appoint a guardian ad litem (GAL) “to represent the person in the proceeding,”<sup>4</sup> and to aid the court in considering the petition through speaking with the potential ward and then reporting on his or her findings.<sup>5</sup> If, once the hearing process has begun, the alleged LIP still does not have counsel,

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<sup>1</sup> M.C.L.A. § 700.427(2) (1995). Evidence in hearings on the appointment of a guardian for a minor are governed, in part, by M.C.R. 5.764(C).

<sup>2</sup> M.C.L.A. § 700.427(4) (1995).

<sup>3</sup> M.C.L.A. § 700.444(1) (1995). Standards governing a court’s request that the allegedly legally incapacitated person be examined by a physician or mental health professional are laid out, in part, in M.C.R. 5.765(A). In practice, about half the courts require little or no documentation from a personal physician reporting a would-be ward’s functional capacity; the other half of the courts require of the physician at least a letter which states his or her opinion as to the appointment of a guardian for a LIP. Task Force on Guardianships and Conservatorships, Results of Survey of Court Policies and Procedures, August, 1997.

<sup>4</sup> M.C.L.A. § 700.443(2).

<sup>5</sup> M.C.L.A. § 700.443a(1) (1995). Guardians ad litem are also governed in part by M.C.R. 5.201 (in general), 5.763(C) (in relation to temporary guardians). The vast majority of guardians ad litem are attorneys; most are appointed by probate court staff, usually off of a rotating list. Task Force on Guardianships and Conservatorships, Results of Survey of Court Policies and Procedures, August, 1997.

and if either the alleged LIP requests counsel or the GAL “determines it is in the best interest of the person to have legal counsel,” then an attorney will be appointed for the alleged LIP.<sup>6</sup>

The hearing process for considering the appointment of a guardian for a DDP is, statutorily, more detailed than the other hearings. First, a detailed report on the alleged DDP is required to accompany the petition for the appointment.<sup>7</sup> Second, provision for the appointment of both a guardian ad litem and counsel for the potential “ward” or “protected person” is statutorily recognized.<sup>8</sup> Third, a jury may be demanded for deciding any issue of fact pertaining to the petition.<sup>9</sup> Fourth, the court is required to inquire into several enumerated factors relevant to whether, and to what extent, a guardianship of the person or of the estate is appropriate.<sup>10</sup> Fifth, appointment of a guardian of the person or of the estate both (a) is to “be utilized only as is necessary to promote and protect the well-being of the person, including protection from neglect, exploitation, and abuse,”<sup>11</sup> and (b) requires that the court find by clear and convincing evidence that the potential “ward” or “protected person” is developmentally disabled and lacks the capacity to care for himself or herself or his or her estate and that the court specify that finding of fact in any order.<sup>12</sup>

A conservator is appointed in order to protect the property interests of the would-be protected person.<sup>13</sup> Under suitable circumstances, the court may order a physician to examine the person, and may send a visitor (a guardian ad litem or an officer of the court) to visit the person.<sup>14</sup>

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<sup>6</sup> M.C.L.A. § 700.443a(3) (1995).

<sup>7</sup> M.C.L.A. § 330.1612(1) (1992).

<sup>8</sup> M.C.L.A. §§ 330.1615, 330.1616 (1992).

<sup>9</sup> M.C.L.A. § 330.1617(1) (1992).

<sup>10</sup> M.C.L.A. § 330.1618(1) (1992).

<sup>11</sup> M.C.L.A. § 330.1602(1) (1992).

<sup>12</sup> M.C.L.A. § 330.1618(5) (1992).

<sup>13</sup> M.C.L.A. § 700.461 (1995).

<sup>14</sup> M.C.L.A. § 700.467(2) (1995). Guardians ad litem and visitors are governed in part by M.C.R. 5.201.

**APPENDIX G:  
SUMMARY OF 1992 MICHIGAN MEDICAL TREATMENT DECISIONS BILL**

This appendix contains a summary of a bill, introduced in the Michigan House of Representatives in February of 1992, which called for a scheme similar to what would be instituted under a Family-Consent-to-Medical-Treatment statute. This summary was prepared by the House Legislative Analysis Section.

**Appendix G not available electronically.**



**APPENDIX H:  
BUREAU OF HEALTH SYSTEMS  
LETTER AND PATIENT GUIDE**

This appendix contains (1) a copy of a November 25, 1991, letter sent out from the Bureau of Health Systems (then within the Department of Public Health) to hospitals, nursing homes, and other relevant institutions, and (2) a copy of the “Michigan Notice of Patients,” a patient guide drafted under the auspices of the Bureau of Health Systems and sent out along with the November letter. The letter describes the impact of the federal Patient Self-Determination Act, explains the drafting of the patient guide, and indicates in what way an earlier letter (sent in February, 1991) was inaccurate. The patient guide, which is meant for institution patients and residents upon admission, informs people of their right to make medical treatment decisions and gives them valuable information concerning what steps can be taken to ensure their medical treatment wishes are honored in the future.

**Appendix H not available electronically.**

**APPENDIX I:  
RELEVANT PROBATE COURT FORMS**

This appendix contains copies of the following probate court forms:

<b>Form Number</b>	<b>Form Title</b>
PC22a	Account of Fiduciary
PC22b	Account of Fiduciary
PC35	Petition for Appointment of Guardian of Legally Incapacitated Person
PC36	Petition for Appointment of Guardian of Minor
PC37	Petition for Appointment of Conservator and/or Protective Order
PC43	Annual Report of Guardian on Condition of Minor
PC43a	Annual Report of Guardian on Condition of Legally Incapacitated Person
PC46a	Order Appointing Conservator
PC46b	Order Appointing Guardian/Limited Guardian of a Minor
PC46c	Order Appointing Guardian of Legally Incapacitated Person
PC70	Petition for Appointment of Guardian, Individual with Alleged Developmental Disability
PC71	Report to Accompany Petition to Appoint, Modify or Discharge Guardian of Individual with Developmental Disability
PC72	Order Appointing Guardian for Individual with Developmental Disability
PC75	Report of Guardian on Condition of Individual with Developmental Disability

In the process governing the petition for, appointment of, and management of, a **guardian for a minor**, the following forms are used:

**Petition**  
PC36

**Appointment**  
PC46b

**Guardian Reports**  
PC43, PC22a/PC22b

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In the process governing the petition for, appointment of, and management of, a **guardian for a legally incapacitated person**, the following forms are used:

**Petition**  
PC35

**Appointment**  
PC46c

**Guardian Reports**  
PC43a, PC22a/PC22b

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In the process governing the petition for, appointment of, and management of, a **conservator**, the following forms are used:

**Petition**  
PC37

**Appointment**  
PC46a

**Conservator Reports**  
PC22a/PC22b

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In the process governing the petition for, the appointment of, and the management of, a **guardian for a developmentally disabled person**, the following forms are used:

**Petition**  
PC70, PC71

**Appointment**  
PC72

**Guardian Reports**  
PC75, PC22a/PC22b